

### REMARKS

Reconsideration of this application in light of the present amendment and remarks is respectfully requested.

Claims 1-25 have been rejected.

Claims 2-10, 12-20 and 22-25 have been canceled, without prejudice.

Claims 1, 11 and 21 have been amended.

Claims 1, 11 and 21 are pending in this application.

Claims 1-4, 7, 10-11, 15-16 and 19-21 were rejected under 35 USC §102(e) as being anticipated by Horneman et al. (U.S. Patent 6,560,460).

Claims 2-4, 7, 10, 15-16 and 19-20 have been canceled.

Independent claims 1 and 21 have been amended to reflect that the network sends dynamic tariff information to the mobile dependent upon traffic load, and the mobile delays its communication if the changing tariff goes above a threshold. Support for this can be found in the specification on page 6, lines 8-16.

It is respectfully submitted that Horneman et al. fails to disclose the features of dynamic tariff information relating to traffic load of the communication system and delaying communication by the at least one subscriber unit if the tariff is above a threshold.

Horneman et al. disclose a system for determining a grade of service for a given mobile station. Horneman does not suggest or disclose dynamic tariff information nor the delaying of communication because of tariffs.

Accordingly it is respectfully submitted that the invention of the amended claims is novel and inventive over the cited prior art. In view of the foregoing remarks, it is submitted that independent claims 1 and 21 are in condition for allowance.

Claim 11 has been amended to properly follow from amended claim 1, and to reflect that the user can select the tariff threshold. Support for this can be found in the specification on page 13 lines 7-14.

Applicants further submit that claim 11 is allowable at least by virtue of its dependency on amended claim 1.

Accordingly, applicants respectfully submit that this rejection has been overcome, and request the Examiner to withdraw this rejection.

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Claims 5, 8-9, 12-14 and 22-25 were rejected under 35 USC §103(a) as being unpatentable over by Horneman et al. in view of Vazvan et al. (WO/ 96/28947).

Claims 5, 8-9, 12-14 and 22-25 have been canceled, thereby rendering this rejection moot.

Moreover, Vazvan discloses a price tradeoff with quality. Applicants respectfully submit that Vazvan does not disclose or suggest any one of: a dynamically changing price linked to traffic load, delayed communication, or delaying communication per a price threshold, as recited in amended base claims 1 and 21.

Claim 6 was rejected under 35 USC §103(a) as being unpatentable over by Horneman et al. in view of Lorimer (EP 0724371 A1).

Claim 6 has been canceled, thereby rendering this rejection moot.

Claims 17-18 were rejected under 35 USC §103(a) as being unpatentable over by Horneman et al. in view of Shaheen et al. (US 6,128,490).

Claims 17-18 have been canceled, thereby rendering this rejection moot.

The other references of record have been reviewed and applicants' invention is deemed patentably distinct and nonobvious over each taken alone or in combination.

For the foregoing reasons, applicants respectfully request that the above rejections be withdrawn.

Inasmuch as this amendment distinguishes all of the applicants' claims over the prior art references, for the many reasons indicated above, passing of this case is now believed to be in order. A Notice of Allowance is earnestly solicited.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.


In the event that the Examiner deems the present application non-allowable, it is requested that the Examiner telephone the Applicants' attorney at the number indicated below so that the prosecution of the present case may be advanced by the clarification of any continuing rejection or through an Examiner's amendment.

Authorization is hereby given to charge any fees necessitated by actions taken herein to Deposit Account 50-2117.

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